SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1942.

Office - Supreme Court, U. S.
FILED
NOV 5 1942
CHARLES ELMORE CROPLEY
CLERK

NO. 118.

CARLOTA MERITET CAMPAZO,
Petitioner,

v.

THE BANK OF NOVA SCOTIA.

PETITION FOR REHEARING.

CARLOTA MERITET CAMPAZO,
PETITIONER,
Pro Se.

Supreme Court, U. S.
FILED
NOV 5 1912
CHARLES ELMORE CROPLEY
CLERK

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

No. 112.

CARLOTA BENITEZ DE ARAYA,

Petitioner,

v.

THE BANK OF NOVA SCOTIA.

PETITION FOR REHEARING.

CARLOTA BENITEZ DE ARAYA,
Petitioner,
Pro se.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1942.

NO. 115.

CARLOTA BENITEZ SAMPAYO,
Petitioner,

vs.

THE BANK OF NOVA SCOTIA.

PETITION FOR REHEARING.

TO THE HONORABLE, THE CHIEF JUSTICE
AND THE ASSOCIATE JUSTICES OF THE
SUPREME COURT OF THE UNITED STATES:

The petition of Carlota Benitez Sampayo, showeth unto your honors that feeling aggrieved by the order of this Honorable Court of October 12, 1942, whereby her petition for writ of certiorari filed herein was denied, while her petition for leave to proceed in forma pauperis was granted, she respectfully prays for a rehearing, on the following grounds:

1. The Eighth Question Presented and set forth at page 28 of the petition for writ of certiorari filed herein, raises the issue to the effect that The Bank of Nova Scotia, respondent herein, obtained two decrees and

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1942.

NO. 112.

CARLOTA BENITEZ MARTAYO,
Petitioner,

vs.

THE BANK OF NOVA SCOTIA.

PETITION FOR REHEARING.

TO THE HONORABLE, THE CHIEF JUSTICE
AND THE ASSOCIATE JUSTICES OF THE
SUPREME COURT OF THE UNITED STATES:

The petition of Carlota Benitez Martayo, above[illegible] unto Your Honors that feeling aggrieved by the order of this Honorable Court of October 12, 1942, whereby her petition for writ of certiorari filed herein was denied, while her petition for leave to proceed in forma pauperis was granted, she respectfully prays for a rehearing, on the following grounds:

1. The Eighth Question Presented and set forth at page 28 of the petition for writ of certiorari filed herein, raises the issue as to the effect that The Bank of Nova Scotia, respondent herein, obtained two decrees and

two orders of execution thereon against your petitioner and the other "condomine" owning and controlling the agricultural properties and assets involved, in common ("en comunidad") for a total sum of approximately ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS ($1,800,000.00) in satisfaction of a debt established by the District Court at a total sum of $673,569.82, said Bank having acquired the properties belonging to your petitioner and said other judgment debtors at the two judicial sales in execution, for a sum in excess of ONE MILLION DOLLARS. That such being the case, and the Bank having thus purchased at the two judicial sales had and for a sum in excess of ONE MILLION DOLLARS properties and assets worth much more and the debt from the entire transaction having been established by the District Court at a total sum of $673,569.82, as aforesaid, petitioner herein (as well as the other "condomine") were entitled to restitution of the difference in their favor and that, consequently, the deficiency judgment appealed from (rendered in between the two decrees mentioned for the same transaction and for the same debt) should have been reversed, with costs, as prayed for - not simply temporarily vacated, with instructions to reenter the same should it be subsequently held by the District Court that your petitioner did not qualify as a "farmer", the latter as provided by the decree of the Circuit Court of Appeals. (R. 242/3).

Reference to paragraph (c), appearing at pages 13 and 14 of the petition for writ of certiorari filed herein will show that this question was seasonably presented to the Circuit Court of Appeals, in line with the caveat previously entered by said Circuit Court in Benitez v. Bank of Nova Scotia, 116 F. (2d) 359, 362, in which case it was pointed out that the unusual procedure complained of, if resorted to, would be "unfair" and "oppressive".

[illegible] the object of execution thereon effaced your [illegible] [illegible] and the other "confirming" owning and controlling the aforementioned properties and [illegible] [illegible] [illegible]

The situation referred to above was discussed further on pages 51 to 62 of the petition for writ of certiorari filed herein, as one of the reasons relied on for the allowance of the writ, wherein after referring once more to the aforementioned caveat entered by the Circuit Court of Appeals warning against the practise actually resorted to, it is shown how the consummation of the oppressive and unfair procedure complained of was brought to the attention of the Circuit Court of Appeals, in minute detail.

At page 54 of the petition for writ of certiorari filed herein it is shown how after the debt in favor of the Bank from the entire transaction had been established by the District Court at a total sum of $673,569.82, as aforesaid, the Bank purchased the securities at its own price of $466,250.00 and that a balance of $207,319.82 having remained in its favor, the deficiency judgment was rendered for $272,479.53, to cover said outstanding balance, that being the deficiency judgment appealed from.

At page 57 of the petition for writ of certiorari filed herein it is shown how a subsequent decree for a total sum of ONE MILLION SIXTY-SEVEN THOUSAND FOUR HUNDRED AND FOURTEEN DOLLARS was rendered, in the same suit, in favor of the Bank, notwithstanding the fact that the full balance remaining unsatisfied from principal on the entire transaction amounted to only $207,319.82 and that the entire deficiency outstanding had theretofore been set by the District Court at the total sum of $272,470.53, as aforesaid. Towards the end of said page 57 of the petition for writ of certiorari filed herein it was pointed out how said subsequent decree for ONE MILLION SIXTY-SEVEN THOUSAND FOUR HUNDRED AND FOURTEEN DOLLARS had been previously brought before the Circuit Court of

Appeals and before this Court in conjunction with the interrelated proceedings entitled "The People of Puerto Rico, Intervenor v. The Bank of Nova Scotia, reported in 116 F. (2d) 379 and in 62 S. Ct. 56.

At page 61 of the petition for writ of certiorari filed herein, it is set forth how through the two judicial sales effected in execution of the said two decrees obtained in conjunction with the same transaction and with the same debt established by the District Court at a total sum of $575,569.82, as aforesaid, the Bank adjudicated to itself the various properties and assets involved for a total sum of ONE MILLION SEVENTY-NINE THOUSAND FOUR HUNDRED DOLLARS and how your petitioner has not obtained restitution of the difference in her favor.

Petitioner herein has not been able to obtain a printed copy of the brief in opposition filed herein on behalf of the respondent, notwithstanding the fact that delivery of a copy of said printed brief in opposition was seasonably requested by her attorney from counsel for the respondent and from the Clerk of this Court. It shall, nevertheless, be assumed that an unsigned typewritten copy of a brief in opposition transmitted to your petitioner's attorney, dated September 1, 1942, will be a true and exact copy of the printed brief in opposition presented to this Court. If that be the case, it is significant to note that said brief in opposition evades any and all reference to the all-important question hereinbefore set forth.

It is respectfully submitted that such procedure of avoiding any and all reference to such vital question, represents an admission of the facts hereinbefore set forth, which facts, in effect, might not be controverted since they appear of record in this Court, although some

appeals and before this Court in connection with the interrelated proceedings entitled "The People of Puerto Rico, Intervenor v. The Bank of Nova Scotia, reported in 118 F. (2d) 279 and in 62 S. Ct. 56.

At page 61 of the petition for writ of certiorari filed herein, it is set forth how through two judicial sales effected in execution of the said two decrees obtained in conjunction with the same transaction and with the same decree established by the District Court at a total sum of $279,386.88, as aforesaid, the Bank adjudicated to itself the various properties and assets involved for a total sum of ONE MILLION SEVENTY-NINE THOUSAND FOUR HUNDRED DOLLARS and how your petitioner has not obtained restitution of the difference in her favor.

Petitioner herein has not been able to obtain a printed copy of the brief in opposition filed herein on behalf of the respondent, notwithstanding the fact that delivery of a copy of said printed brief in opposition was seasonably requested by her attorney from counsel for the respondent and from the Clerk of this Court. It shall, nevertheless, be assumed that an unsigned typewritten copy of a brief in opposition transmitted to your petitioner's attorney, dated September 1, 1942, will be a true and exact copy of the printed brief in opposition presented to this Court. It thus be the case, it is significant to note that said brief in opposition evades any and all references to the all-important question hereinbefore set forth.

It is respectfully submitted that such procedure of avoiding any and all reference to such vital question, represents an admission of the facts hereinbefore set forth, which facts might not be controverted since they appear of record in this Court, although some

of them are to be found in the record of an inter-related proceeding, as aforesaid.

Your petitioner respectfully represents to this Court that it was her intention to subsequently file a petition herein, praying for leave to submit certified copies of the documents required to further prove her contention in the premises, in order that if such petition were granted, this Court might have before it all the necessary evidence in the record of this case, but that, due to her penury, it was not possible to take adequate action along those lines, before this Court reconvened.

Your petitioner further respectfully represents to this Court that as shown by the record of the case before this Court numbered and entitled: "Carlota Benitez de Seix et al. v. Rosa Maria Anciani et al., No. 260, October Term, 1942 and by the "Petition to the Court" filed therein, the only funds which might have been available to her with with which to procure such certified copies, have been retained by the Clerk of the District Court, thus making it impossible for her to protect her rights, by adquately defending herself.

It is respectfully submitted that in view of the extreme situation presented, tacitly admitted by counsel for the respondent, as aforesaid, the interest of justice would seem to warrant that your petitioner be granted a rehearing, permitting her to furnish said certified copies of documents, unless counsel for the respondent should be willing to undertake to inform this Court that any or all of the facts set forth in the petition for writ of certiorari filed herein, relative to the oppressive and unfair situation set forth hereinabove, are otherwise than as stated.

Your petitioner is quite confident in that once it shall have been definitely ascertained that she is entitled to restitution under the two decrees already carried into execution, this Honorable Court shall not permit that another judgment rendered in between, to wit, the deficiency judgment to which these proceedings refer, shall remain in a latent state, like Damocles sword, creating an impending threat to the peace of mind and the pursuit of happiness to which all Godfearing American citizens are entitled under our Democracy.

WHEREFORE, petitioner herein respectfully prays this Honorable Court to grant her a rehearing, granting her leave to submit the certified copies of documents referred to above.

And your petitioner further prays that she may be granted such other and further relief as to this Honorable Court may seem meet and proper in the premises.

Ponce, P. R., October 29, 1942.

Carlota Benitez Sampayo,
Petitioner.
Pro Se.

Address: No. 8 Méndez Vigo St.,
Ponce, Puerto Rico.

UNITED STATES OF AMERICA,)
TERRITORY OF PUERTO RICO,) ss:
CITY OF PONCE.)

I, Carlota Benitez Sampayo, being duly sworn, upon my oath depose and say: That I am of legal age, married and a resident of Ponce,

Your petitioner is quite confident in that
once it shall have been definitely ascertained
that she is entitled to restitution under the
two decrees already carried into execution,
this honorable Court shall not permit that
another judgment rendered in between, to wit,
the definitive judgment to which these proceed-
ings refer, shall remain in a latent state,
like Damocles sword, creating an impending
threat to the cause of mind and the pursuit of
happiness to which all God-loving American citi-
zens are entitled under our Democracy.

WHEREFORE, petitioner herein respectfully
prays this Honorable Court to issue her a
temporary, standing her leave to submit the cer-
tified copies of documents referred to above.

And your petitioner further prays that she
may be granted such other and further relief as
to this Honorable Court may seem meet and proper
in the premises.

Ponce, P. R., October 28, 1942.

Carlota Benitez Sampayo,
Petitioner.
Pro Se.

Address: No. 8 Menden Vigo St.,
Ponce, Puerto Rico.

UNITED STATES OF AMERICA,
TERRITORY OF PUERTO RICO,
CITY OF PONCE. } ss:

I, Carlota Benitez Sampayo, being duly
sworn, upon my oath depose and say: That I am
of legal age, married and a resident of Ponce,

Puerto Rico. That I am the petitioner in the above-entitled proceedings, that the foregoing petition for rehearing has been prepared in accordance with my instructions, that I have read the same and that the facts stated therein are true, to the best of my knowledge, information and belief.

That on this date I have placed in the mails an envelope, bearing sufficient postage, addressed to J. Henri Brown, Esq., at The Bank of Nova Scotia Building, San Juan, P. R., which envelope contained a true and exact copy of the foregoing petition for rehearing.

That a regular daily mail service, operated by the United States Post Office Department, exists between this city of Ponce and the city of San Juan, Puerto Rico.

Ponce, Puerto Rico, October 30th, 1942.

Carlota Benitez Sampayo
Affiant.

AFFIDAVIT NO. 23447.

Subscribed and sworn to before me by Carlota Benitez Sampayo, of the personal circumstances hereinbefore set forth and to me personally known, at Ponce, Puerto Rico, on this 30 day of October, A.D. 1942.

(Signed) Rafael Atiles Moreu
Notary Public.

(Seal)